

## ***SAMPLE CAUTIONARY INSTRUCTION REGARDING JUROR-PROPOSED QUESTIONS***

In this trial I will allow you to propose written clarification or follow-up questions of witnesses.

1. The lawyers will first do their jobs: a lawyer will call a witness ask his or her questions, and the other lawyer will have an equal chance to ask questions on those same topics.
2. After the lawyers are finished questioning the witness, I will ask whether any juror proposes any clarification or follow-up question concerning something about which the witness testified. If there was an answer given that you did not hear or understand clearly, or if there was an answer given that you think was not complete, or even if there was some question not asked that you think should have been asked, you may wish to propose one or more questions.
3. If you do, you should have already been thinking about it, and have already begun to write it down for me. You should have a supply of 4" x 6" cards in your notebooks for this purpose.
4. I will have your questions collected and passed up to me and I will review your proposed question at the side of the bench with the attorneys. You must rely upon me to decide whether the question is "in bounds" or "out of bounds" on a technical basis, and also to decide exactly how to ask the question for you. I may rephrase your question.
5. Please bear in mind that the question you are proposing might not be within that particular witness's knowledge. If that is the case, I will ordinarily tell you so.
6. The attorneys will then have a full opportunity to ask follow-up questions concerning the additional answers the witness may provide.
7. Please remember these "ground rules" in proposing questions:
  - a) First, you are not required or expected to propose questions. It is simply a tool you may use as an option. In most cases, the lawyers will do a very complete job of inquiring of the witnesses. But if you think clarification is needed, this is your opportunity to seek that additional information.
  - b) Second, any question of yours must be in writing. You are never to ask any question of a witness out loud.
  - c) Third, never allow yourself to become a "partisan" in the case; that is, do not ever think of yourself as an assistant to the United States Attorney or an assistant to the defendant's attorney. Always think of yourself as an independent and impartial person whose job is to understand the facts and ultimately to make a decision.
  - d) Finally, in the event that I decide that some particular proposed question will not be

asked, I may or may not explain to you the reason for such decision. If I do not, you are not to speculate about what the reason or reasons might have been for that decision; also, during the trial, do not mention to your fellow jurors the nature of any question you proposed that was not asked.

### ***SAMPLE CAUTIONARY INSTRUCTION REGARDING NOTES***

You are permitted to take notes, if you wish, during the trial. You have notebooks and pens for that purpose. There are cautions, however, that you are to observe in taking notes:

- 1) Firstly, you are not required or expected to take notes. If you don't wish to then don't. But if you think it may help you remember a detail, take whatever kind of notes you wish.
- 2) Secondly, if you do take notes, do not allow the note-taking to interfere with your duty to pay attention in court. Don't get so caught up in writing that you stop listening, in other words.
- 3) Thirdly, notes are to be used strictly to refresh your own memory of the evidence. Jury deliberations are not to become a contest to see who took the better or more extensive notes. Your notes are your property and only to assist you, and no one else. You will be expected to discuss your impressions of the evidence and the witnesses, but that does not include debating other jurors' notations. Therefore, do not allow yourself to become engaged in any arguments that compare any of these written notes.